



WEST VALLEY CITY REDEVELOPMENT AGENCY  
3600 CONSTITUTION BOULEVARD  
WEST VALLEY CITY, UTAH 84119

KAREN LANG, CHAIR  
STEVE BUHLER, VICE CHAIR

A Special Regular Meeting of the West Valley City Redevelopment Agency will be held on Tuesday, October 20, 2015, at 6:30 PM, or as soon thereafter as the City Council Meeting is completed, in the Council Chambers, West Valley City Hall, 3600 Constitution Boulevard, West Valley City, Utah. Members of the press and public are invited to attend.

Posted ,

**A G E N D A**

1. Call to Order: Karen Lang
2. Roll Call
3. Approval of Minutes:
  - A. September 22, 2015 (Special Meeting)
  - B. October 6, 2015 Regular Meeting
4. Resolutions:
  - A. 15-22: Approve a real estate purchase agreement with Heartland West Valley Commercial Limited Partners II and Heartland West Valley Commercial Limited Partners, LLLP, for the purchase of commercial/retail property located at approximately 3550 South 2700 West in West Valley City
5. Adjourn

West Valley City does not discriminate on the basis of race, color, national origin, gender, religion, age or disability in employment or the provision of services.

If you are planning to attend this public meeting and, due to a disability, need assistance in understanding or participating in the meeting, please notify the City eight or more hours in advance of the meeting and we will try to provide whatever assistance may be required. The person to contact for assistance is Nichole Camac.



## MINUTES OF RDA SPECIAL REGULAR MEETING – SEPTEMBER 22, 2015

-1-

THE WEST VALLEY CITY REDEVELOPMENT AGENCY MET IN SPECIAL REGULAR SESSION ON TUESDAY, SEPTEMBER 22, 2015, AT 6:38 P.M. IN THE CITY COUNCIL CHAMBERS, WEST VALLEY CITY HALL, 3600 CONSTITUTION BOULEVARD, WEST VALLEY CITY, UTAH. THE MEETING WAS CALLED TO ORDER BY CHAIRMAN LANG.

THE FOLLOWING MEMBERS WERE PRESENT:

Karen Lang, Chair  
Ron Bigelow  
Steve Buhler  
Tom Huynh  
Lars Nordfelt  
Corey Rushton  
Steve Vincent

STAFF PRESENT:

Wayne Pyle, Chief Executive Officer  
Nichole Camac, Secretary

Eric Bunderson, City Attorney  
Layne Morris, CPD Director  
Mark Nord, Acting CED Director  
John Evans, Fire Chief  
Jim Welch, Finance Director  
Sam Johnson, Strategic Communications Director  
Russell Willardson, Public Works Director  
Mark VanRoosendahl, Police Department  
Jake Arslanian, Public Works Department

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### OPENING CEREMONY

The Opening Ceremony was previously conducted by Ron Bigelow who led the Pledge of Allegiance to the Flag.

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### APPROVAL OF MINUTES OF REGULAR MEETING HELD SEPTEMBER 1, 2015

The Board read and considered Minutes of the Regular Meeting held September 1, 2015. There were no changes, corrections or deletions.

## MINUTES OF RDA SPECIAL REGULAR MEETING – SEPTEMBER 22, 2015

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After discussion, Mr. Bigelow moved to approve the Minutes of the Regular Meeting held September 1, 2015, as written. Mr. Huynh seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Buhler	Yes
Mr. Huynh	Yes
Mr. Bigelow	Yes
Mr. Rushton	Yes
Mr. Nordfelt	Yes
Chairman Lang	Yes

Unanimous.

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**RESOLUTION NO. 15-20, A RESOLUTION OF THE BOARD OF DIRECTORS (THE “BOARD”) OF THE REDEVELOPMENT AGENCY OF WEST VALLEY CITY, UTAH (THE “AGENCY”), AUTHORIZING THE ISSUANCE AND SALE OF NOT MORE THAN \$3,600,000 AGGREGATE PRINCIPAL AMOUNT OF ITS TAX INCREMENT REVENUE REFUNDING BONDS, SERIES 2015; FIXING THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF THE BONDS, THE MAXIMUM NUMBER OF YEARS OVER WHICH THE BONDS MAY MATURE, THE MAXIMUM INTEREST RATE WHICH THE BONDS MAY BEAR, AND THE MAXIMUM DISCOUNT FROM PAR AT WHICH THE BONDS MAY BE SOLD; DELEGATING TO CERTAIN OFFICERS OF THE AGENCY THE AUTHORITY TO APPROVE THE FINAL TERMS AND PROVISIONS OF THE BONDS WITHIN THE PARAMETERS SET FORTH HEREIN; PROVIDING FOR THE PUBLICATION OF A NOTICE OF BONDS TO BE ISSUED; PROVIDING FOR THE RUNNING OF A CONTEST PERIOD; AUTHORIZING AND APPROVING THE EXECUTION OF AN INDENTURE OF TRUST, A BOND PURCHASE AGREEMENT, AND OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AND RELATED MATTERS.**

Chief Executive Officer, Wayne Pyle, presented proposed Resolution No. 15-20 that would authorize the issuance and sale of not more than \$3,600,000 aggregate principal amount of its Tax Increment Revenue Refunding Bonds, Series 2015; fixing the maximum aggregate principal amount of the Bonds, the maximum number of years over which the Bonds may mature, the maximum interest rate which the Bonds may bear, and the maximum discount from par at which the Bonds may be sold; delegating to certain officers of the Agency the authority to approve the final terms and provisions of the Bonds within the parameters set forth herein; providing for the publication of a Notice of Bonds to be Issued; providing for the running of a contest period; authorizing and

## MINUTES OF RDA SPECIAL REGULAR MEETING – SEPTEMBER 22, 2015

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approving the execution of an Indenture of Trust, a Bond Purchase Agreement, and other documents required in connection therewith; and related matters.

The Chief Executive Officer discussed in detail terms of the transaction and proposed Resolution and requested the Board consider continuing formal action to the Regular Agency Meeting scheduled October 6, 2015.

After discussion, Mr. Bigelow moved to continue proposed Resolution 15-20, a Resolution that would Authorize The Issuance And Sale Of Not More Than \$3,600,000 Aggregate Principal Amount Of Its Tax Increment Revenue Refunding Bonds, Series 2015; Fixing The Maximum Aggregate Principal Amount Of The Bonds, The Maximum Number Of Years Over Which The Bonds May Mature, The Maximum Interest Rate Which The Bonds May Bear, And The Maximum Discount From Par At Which The Bonds May Be Sold; Delegating To Certain Officers Of The Agency The Authority To Approve The Final Terms And Provisions Of The Bonds Within The Parameters Set Forth Herein; Providing For The Publication Of A Notice Of Bonds To Be Issued; Providing For The Running Of A Contest Period; Authorizing And Approving The Execution Of An Indenture Of Trust, A Bond Purchase Agreement, And Other Documents Required In Connection Therewith; And Related Matters, to the Regular Meeting scheduled October 6, 2015. Mr. Vincent seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Buhler	Yes
Mr. Huynh	Yes
Mr. Bigelow	Yes
Mr. Rushton	Yes
Mr. Nordfelt	Yes
Chairman Lang	Yes

Unanimous.

### **MOTION TO ADJOURN**

Upon motion by Mr. Vincent, all voted in favor to adjourn.

THERE BEING NO FURTHER BUSINESS OF THE WEST VALLEY REDEVELOPMENT AGENCY THE SPECIAL REGULAR MEETING OF TUESDAY, SEPTEMBER 22, 2015, WAS ADJOURNED AT 6:41 P.M. BY CHAIRMAN LANG.

**MINUTES OF RDA SPECIAL REGULAR MEETING – SEPTEMBER 22, 2015**

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I hereby certify the foregoing to be a true, accurate and complete record of the proceedings of the Special Regular Meeting of the West Valley City Redevelopment Agency held Tuesday, September 22, 2015.

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Nichole Camac  
Secretary

## **MINUTES OF RDA REGULAR MEETING – OCTOBER 6, 2015**

**-1-**

THE WEST VALLEY CITY REDEVELOPMENT AGENCY MET IN REGULAR SESSION ON TUESDAY, OCTOBER 6, 2015, AT 6:49 P.M. IN THE CITY COUNCIL CHAMBERS, WEST VALLEY CITY HALL, 3600 CONSTITUTION BOULEVARD, WEST VALLEY CITY, UTAH. THE MEETING WAS CALLED TO ORDER BY VICE CHAIRMAN BUHLER.

THE FOLLOWING MEMBERS WERE PRESENT:

Steve Buhler, Vice Chair  
Ron Bigelow  
Tom Huynh  
Lars Nordfelt  
Steve Vincent

ABSENT:

Karen Lang, Chair (Excused)  
Corey Rushton (Excused)

STAFF PRESENT:

Wayne Pyle, Chief Executive Officer  
Nichole Camac, Secretary  
  
Layne Morris, CPD Director  
Lee Russo, Police Chief  
John Evans, Fire Chief  
Jim Welch, Finance Director  
Russell Willardson, Public Works Director  
Sam Johnson, Strategic Communications Director  
Steve Pastorik, Acting CED Director  
Mark Nord, CED Department  
Stuart Williams, Law Department  
Jake Arslanian, Public Works Department

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### **OPENING CEREMONY**

The Vice Chairman noted the Opening Ceremony had been conducted in the City Council Regular Meeting held earlier.

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### **PUBLIC HEARING, ACCEPT PUBLIC INPUT REGARDING RE-OPENING THE FY 2015-2016 BUDGET**

## MINUTES OF RDA REGULAR MEETING – OCTOBER 6, 2015

-2-

Vice Chairman Buhler informed a public hearing had been advertised for the Regular Redevelopment Agency Meeting scheduled October 6, 2015, in order for the Board to hear and consider public comments regarding re-opening the FY 2015-2016 Budget.

He presented proposed Resolution No. 15-21 related to the proposal to be considered by the City Council subsequent to the public hearing, and incorporated information into the record as follows:

State Statute Title 10, Chapter 6, Utah Code Annotated 1953, as amended, allowed the City to amend its budget during the year. The Redevelopment Agency held, as needed on a quarterly basis, public hearings to amend the annual budget.

Public notice had been given regarding the public hearing in news publications with circulation to the general public, as prescribed by law.

Vice Chairman Buhler opened the public hearing. There being no one to speak in favor or in opposition, Vice Chairman Buhler closed the public hearing.

### **ACTION: RESOLUTION NO. 15-21, RE-OPENING THE FISCAL YEAR 2015-2016 BUDGET FOR THE PURPOSE OF MAKING AMENDMENTS TO REFLECT CHANGES IN ACTUAL REVENUES AND EXPENDITURES**

The Board previously held a public hearing regarding proposed Resolution No. 15-21 that would authorize re-opening the fiscal year 2015-2016 Budget for the purpose of making amendments to reflect changes in actual revenues and expenditures.

After discussion, Mr. Vincent moved to approve Resolution No. 15-21, a Resolution Authorizing Re-Opening the Fiscal Year 2015-2016 Budget for the Purpose of Making Amendments to Reflect Changes in Actual Revenues and Expenditures. Mr. Huynh seconded the motion.

A roll call vote was taken:

Mr. Vincent	Yes
Mr. Huynh	Yes
Mr. Bigelow	Yes
Mr. Nordfelt	Yes
Vice Chairman Buhler	Yes

Unanimous.

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**PUBLIC HEARING, ACCEPT PUBLIC INPUT REGARDING RE-FINANCING THE REDEVELOPMENT AGENCY'S TAX INCREMENT REVENUE REFUNDING BONDS, SERIES 2005**



## MINUTES OF RDA REGULAR MEETING – OCTOBER 6, 2015

-3-

Vice Chairman Buhler informed a public hearing had been advertised for the Regular Redevelopment Agency Meeting scheduled October 6, 2015, in order for the Board to hear and consider public comments regarding authorizing the issuance and sale of not more than \$3,600,000 aggregate principal amount of its Tax Increment Revenue Refunding Bonds, Series 2015; fix the maximum aggregate principal amount of the Bonds, the maximum number of years over which the Bonds may mature, the maximum interest rate which the Bonds may bear, and the maximum discount from par at which the Bonds may be sold; delegate to certain officers of the Agency the authority to approve the final terms and provisions of the Bonds within the parameters set forth herein; provide for the publication of a Notice of Bonds to be Issued, provide for the running of a contest period; authorize and approve the execution of an Indenture of Trust, a Bond Purchase Agreement, and other documents required in connection therewith; and related matters.

Vice Chairman Buhler presented proposed Resolution No. 15-20 related to the proposal to be considered by the Board subsequent to the public hearing, and incorporated information into the record as follows:

Market analysis indicated significant interest savings could be realized by refinancing the Agency's Tax Increment Revenue Refunding Bonds, Series 2005. The bonds were initially issued to pay for land acquisition, infrastructure improvements including curb, gutter, paving and landscaping and other improvements related to the Maverik Center project.

It was anticipated that by refinancing the 2005 Bonds savings of about 9.0% could be realized, depending on the market conditions at the time of sale. This savings roughly translated to approximately \$413,000.00 over the life of the bonds. The bonds sold in this refunding would not extend the maturity of the original bonds but would reduce the annual payments.

Vice Chairman Buhler opened the public hearing. There being no one to speak either in favor or in opposition, Vice Chairman Buhler closed the public hearing.

Vice Chairman Buhler clarified that the term would not be extended and no additional debt would be added.

Vice Chairman Buhler opened the public hearing. There being no one to speak either in favor or in opposition, Vice Chairman Buhler closed the public hearing.

**ACTION: RESOLUTION NO. 15-20, A RESOLUTION OF THE BOARD OF DIRECTORS (THE "BOARD") OF THE REDEVELOPMENT AGENCY OF WEST VALLEY CITY, UTAH (THE "AGENCY"), AUTHORIZING THE ISSUANCE AND SALE OF NOT MORE THAN \$3,600,000 AGGREGATE**

**MINUTES OF RDA REGULAR MEETING – OCTOBER 6, 2015**

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**PRINCIPAL AMOUNT OF ITS TAX INCREMENT REVENUE REFUNDING BONDS, SERIES 2015; FIXING THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF THE BONDS, THE MAXIMUM NUMBER OF YEARS OVER WHICH THE BONDS MAY MATURE, THE MAXIMUM INTEREST RATE WHICH THE BONDS MAY BEAR, AND THE MAXIMUM DISCOUNT FROM PAR AT WHICH THE BONDS MAY BE SOLD; DELEGATING TO CERTAIN OFFICERS OF THE AGENCY THE AUTHORITY TO APPROVE THE FINAL TERMS AND PROVISIONS OF THE BONDS WITHIN THE PARAMETERS SET FORTH HEREIN; PROVIDING FOR THE PUBLICATION OF NOTICE OF BONDS TO BE ISSUED; PROVIDING FOR THE RUNNING OF A CONTEST PERIOD; AUTHORIZING AND APPROVING THE EXECUTION OF AN INDENTURE OF TRUST, A BOND PURCHASE AGREEMENT, AND OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AND RELATED MATTERS**

The Board previously held a public hearing regarding proposed Resolution No. 15-20 that would authorize the issuance and sale of not more than \$3,600,000 aggregate principal amount of its Tax Increment Revenue Refunding Bonds, Series 2015; fix the maximum aggregate principal amount of the Bonds, the maximum number of years over which the Bonds may mature, the maximum interest rate which the Bonds may bear, and the maximum discount from par at which the Bonds may be sold; delegating to certain officers of the Agency the authority to approve the final terms and provisions of the Bonds within the parameters set forth herein; provide for the publication of Notice of Bonds to be Issued; provide for the running of a contest period, authorize and approve the execution of an Indenture of Trust, a Bond Purchase Agreement, and other documents required in connection therewith; and related matters.

After discussion, Mr. Nordfelt moved to approve Resolution No. 15-20, a Resolution of the Board of Directors (the “Board”) of the Redevelopment Agency of West Valley City, Utah (the “Agency”), Authorizing the Issuance and Sale of Not More Than \$3,600,000 Aggregate Principal Amount of Its Tax Increment Revenue Refunding Bonds, Series 2015; Fixing the Maximum Aggregate Principal Amount of the Bonds, the Maximum Number of Years Over Which the Bonds May Mature, the Maximum Interest Rate Which the Bonds May Bear, and the Maximum Discount from Par at Which the Bonds May be Sold; Delegating to Certain Officers of the Agency the Authority to Approve the final Terms and Provisions of the Bonds Within the Parameters Set Forth Herein; Providing for the Publication of Notice of Bonds to be Issued; Providing for the Running of a Contest Period; Authorizing and Approving the Execution of an Indenture of Trust, a Bond Purchase Agreement, and Other Documents Required in Connection Therewith; and Related Matters. Mr. Huynh seconded the motion.

A roll call vote was taken:

Mr. Vincent

Yes

**MINUTES OF RDA REGULAR MEETING – OCTOBER 6, 2015**

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Mr. Huynh	Yes
Mr. Bigelow	Yes
Mr. Nordfelt	Yes
Vice Chairman Buhler	Yes

Unanimous.

**MOTION TO ADJOURN**

Upon motion by Mr. Vincent, all voted in favor to adjourn.

THERE BEING NO FURTHER BUSINESS OF THE WEST VALLEY REDEVELOPMENT AGENCY THE REGULAR MEETING OF TUESDAY, OCTOBER 6, 2015, WAS ADJOURNED AT 6:54 P.M. BY VICE CHAIRMAN BUHLER.

I hereby certify the foregoing to be a true, accurate and complete record of the proceedings of the Regular Meeting of the West Valley City Redevelopment Agency held Tuesday, October 6, 2015.

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Nichole Camac  
Secretary

**Item:** 15-22  
**Fiscal Impact:** \$9,000,000 + Closing/Broker costs  
**Funding Source:** RDA Fund  
**Account #:** N/A  
**Budget Opening Required:** ☐

**ISSUE:**

A Resolution approving a real estate purchase agreement with Heartland West Valley Commercial Limited Partners II and Heartland West Valley Commercial Limited Partners, LLLP, for the purchase of commercial/retail property located at approximately 3550 South 2700 West in West Valley City.

**SYNOPSIS:**

The Redevelopment Agency desires to acquire this property as it comprises the most visible and strategic corner of Fairbourne Station. Located at approximately 3550 South and 2700 West, this property fronts two of the most prominent traffic arteries of West Valley City and is also visible from I-215. The RDA negotiated for the sale of this property for years and now is poised to purchase the property and redevelop it as Class A Office space, with all the amenities and architectural details appropriate for Fairbourne Station. The purchase contract is structured to allow for a lengthy and thorough due diligence period and the option to back out of the contract with very minor penalties at any time before the closing date.

**BACKGROUND:**

This property has always been critical to the Fairbourne Station vision. The Redevelopment Agency began negotiations with the owner more than eight (8) years ago and now has assembled the resources and plans to redevelop this strategic corner.

**RECOMMENDATION:**

City staff recommends approval of the Resolution.

**SUBMITTED BY:**

Nicole Cottle, CED Director, Assistant City Manager, General Counsel

Mark Nord, RDA Director

**REDEVELOPMENT AGENCY OF WEST VALLEY CITY**

**RESOLUTION NO. 15-22**

**A RESOLUTION APPROVING A REAL ESTATE PURCHASE AGREEMENT WITH HEARTLAND WEST VALLEY COMMERCIAL LIMITED PARTNERS II AND HEARTLAND WEST VALLEY COMMERCIAL LIMITED PARTNERS, LLLP, FOR PROPERTY LOCATED AT APPROXIMATELY 3550 SOUTH 2700 WEST.**

**WHEREAS**, the Redevelopment Agency of West Valley City (hereinafter the “Agency”) desires to further the Fairbourne Station Vision by purchasing certain property within the Fairbourne Station area from Heartland West Valley Commercial Limited Partners II and Heartland West Valley Commercial Limited Partners, LLLP, (hereinafter the “Seller”); and

**WHEREAS**, the Seller desires to sell property located at approximately 3550 South and 2700 West to the Agency; and

**WHEREAS**, an agreement has been prepared for execution by and between the Agency and the Seller, a copy of which is attached hereto and entitled “Redevelopment Agency of West Valley City Real Estate Purchase and Sale Agreement” (hereinafter the “Agreement”), which sets forth the rights, duties, and obligations of each of the parties with respect thereto; and

**WHEREAS**, the Board of Directors of the Redevelopment Agency of West Valley City, Utah, does hereby determine that it is in the best interests of the health, safety, and welfare of the citizens of West Valley City to approve the Agreement;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Redevelopment Agency of West Valley City, Utah, as follows:

1. That the Agreement between the Agency and the Seller for the purchase of real property located at approximately 3550 South 2700 West is hereby approved in substantially the form attached, and that the Chief Executive Officer is hereby authorized to execute said Agreement for and in behalf of the Agency, subject to approval of the final form of the Agreement by the Chief Executive Officer and City Attorney’s Office; and
2. That the Chief Executive Officer is hereby authorized to accept the deed to the property located at approximately 3550 South 2700 West as identified in the Agreement, and to execute any documents necessary to complete the purchase on behalf of the Agency; and
3. That the West Valley City Recorder is hereby authorized to record the deed in the Office of the Salt Lake County Recorder.

**PASSED, APPROVED, and MADE EFFECTIVE** this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, 2015.

REDEVELOPMENT AGENCY  
OF WEST VALLEY CITY

\_\_\_\_\_  
CHAIR

ATTEST:

\_\_\_\_\_  
SECRETARY

**REDEVELOPMENT AGENCY OF WEST VALLEY CITY  
REAL ESTATE PURCHASE AND SALE AGREEMENT**

This Real Estate Purchase and Sale Agreement (the "**Agreement**") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the Redevelopment Agency of West Valley City (the "**Buyer**"), a body politic of the State of Utah, and Heartland West Valley Commercial Limited Partners II, a Utah limited partnership and Heartland West Valley Commercial Limited Partners, LLLP, a Minnesota limited partnership (collectively, in the singular, as the "**Seller**"). The foregoing entities are sometimes referred to individually as a "Party" or collectively as the "Parties."

**RECITALS:**

A. The Seller owns the following parcels at approximately 3550 South 2700 West, West Valley City:

- 15-33-129-045: .46 acres
- 15-33-129-053: .52 acres
- 15-33-129-054: 2.47 acres
- 15-33-129-055: 1.51 acres
- 15-33-129-056: .41 acres

Herein the "Properties." For purposes of this Agreement, the term "Properties" shall include all the Properties purchased pursuant to the terms of this Agreement and all of the Seller's right, title, and interest in and to all leases, privileges, right-of-way, easements, and appurtenances, and all other rights appurtenant to or connected with the beneficial use or enjoyment of the Properties, including, without limitation, any of the Seller's right, title, and interest in and to immediately adjacent public streets, roads, alleys, or rights-of-way; all water, if any, and mineral rights; all surveys in the Seller's possession or control relating to the Properties; and all soils and other geological or environmental studies, investigations, and reports, engineering studies and reports, wetlands information and reports, and landscaping plans and specifications in the Seller's possession or control relating to the Properties.

B. The Seller agrees to sell the Properties to the Buyer, and the Buyer desires to purchase the Properties from the Seller, upon the terms and conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the covenants and promises contained in this Agreement, the Buyer and the Seller agree as follows:

**AGREEMENT:**

1. **Purchase of Properties.** Subject to the terms and conditions of this Agreement, the Seller agrees to sell the Properties to the Buyer, and the Buyer agrees to purchase the Properties from the Seller. The Seller hereby agrees to effect this purchase and sale transaction through the

use of a Special Warranty Deed, subject only to those title matters which are acceptable to the Buyer.

**2. Purchase Price.**

a. Purchase Price. The Purchase Price for the Properties shall be \$9,000,000. The Purchase Price shall be paid as follows:

- (i) \$8,500,000 shall be paid at Closing.
- (ii) \$170,000 shall be paid on or before the date that is one year after Closing.
- (iii) \$170,000 shall be paid on or before the date that is two years after Closing.
- (iv) \$160,000 shall be paid on or before the date that is three years after Closing.

b. Earnest Money and Title Company. Within 10 days of the execution of this Agreement by all Parties, the Buyer shall pay \$500,000 Earnest Money into escrow account with National Title Company, c/o Julie Wright. The Parties agree to close both sides of the transaction with National Title Agency, Agent Julie Wright (the "Title Company"). The Earnest Money shall be deducted from the final sales price at the Closing.

**3. Inspections and Other Due Diligence.** The Parties agree as follows:

a. Inspection Period. An initial inspection period of one hundred twenty (120) days (Initial Inspection Period) shall commence on the date this Agreement is executed by both Parties. Buyer may extend the Initial Inspection Period for an additional thirty (30) days (Extension Period). The Initial Inspection Period and the Extension Period collectively shall be referred to as the Inspection Period. During the Inspection Period, the Buyer and/or its agents shall have the right, at the Buyer's sole cost, to physically survey, inspect, and map the Properties; to conduct engineering, soils, geological, environmental and other tests; to detect any defects or other problems in the Properties and to determine if the Properties are in an acceptable condition, as determined solely by the Buyer.

b. During the Inspection Period, the Buyer will devote all necessary resources to complete its due diligence. Buyer shall conduct an analysis of all legal, financial, tax, market and operational documentation relating to the Properties. Seller shall allow the Buyer and the agents of the Buyer access to the Properties and provide the Buyer with all documentation relating thereto, including, but not limited to:

- (i.) any and all surveys, studies, current rent rolls, any historical rent rolls that are in Seller's possession, financial statements for at least the past three years, all leases, subleases, and contracts and any other information or documentation;
- (ii.) a current accounting of all rental deposits held by the Seller which will be conveyed to the Buyer at Closing.



- c. The Buyer shall have the right during the Inspection Period to engage in any and all discussions with US Bank, Staples and Toys 'R Us and their agent(s) regarding the negotiation of early lease termination and the vacating of their respective premises; provided, however, that Buyer's broker, Dee Hansen, must be present at all Buyer discussions with tenants of Seller.
- d. Buyer may terminate this Agreement for any reason during the Inspection Period and receive a full refund of the Earnest Money as set forth in Section 2.(b.).
- e. If the Buyer disapproves the condition of the Properties in writing, the Seller shall have the option, in its sole discretion, to remedy any disapproved item to the Buyer's satisfaction, within ten (10) days or to decline to remedy the disapproved item. The ten (10) day period may be extended by written agreement of the Parties. If the Buyer disapproves the condition of the Properties in writing, and the Seller fails to timely and adequately remedy the disapproved item, the Buyer in its sole discretion may choose to terminate this Agreement or to accept the disapproved item(s). The Buyer will reasonably repair and restore the Properties following completion of the due diligence inspections. If the Buyer has not terminated the Agreement prior to the end of the Inspection Period, the Buyer shall be deemed to have waived all physical inspection and survey objections, and shall proceed to the Closing in accordance with the other terms and conditions hereof, notwithstanding the due diligence items reviewed.
- f. Second Extension Period. Buyer may extend the Inspection Period for an additional thirty (30) days after the expiration of the Inspection Period (the "Second Extension Period") for the purposes of lease negotiations with the US Bank, Toys-R-Us and Staples or for financing purposes. Buyer shall deposit another \$50,000 into the Earnest Money account for the Second Inspection Period, which shall be deducted from the purchase price at Closing. Buyer may cancel and/or terminate this Agreement during the Second Extension Period if Buyer fails to obtain financing satisfactory to Buyer or if Buyer is unable to finalize lease negotiations with any and all tenants with terms satisfactory to Buyer. In the event of termination or cancellation of this Agreement by Buyer in the Second Extension Period, Seller shall be paid \$50,000, but the remainder of the Earnest Money set forth in Section 2.(b.) shall be refunded in full to Buyer.

4. **Conditions to Closing.** The Closing shall not occur until each one of the following conditions precedent has been satisfied, in the Buyer's sole discretion, prior to the Closing; provided, however, that the Buyer is entitled to waive any of the conditions in writing.

- a. Approval of Title. At the Closing, the title to the Properties shall be in a condition that is acceptable to the Buyer in its sole discretion. At the Buyer's written request, the Seller shall provide such documentation, releases, or reconveyances as may be reasonably necessary to provide a title acceptable to the Buyer.

- b. Water and Mineral Rights. The Parties agree that all water and mineral rights, shares, or stock owned by the Seller and associated with the Properties, if any, shall be conveyed to the Buyer. Seller shall furnish all documents evidencing said rights, shares or stock to the Buyer prior to Closing.
- c. Financing, Inspections and Other Due Diligence. Closing is contingent on Buyer's rights under Section 3 of this Agreement.
- d. Approval of the Redevelopment Agency Board. This Agreement and transaction must be approved by the Redevelopment Agency Board prior to the end of the Inspection Period, as may be extended in accordance with this Agreement.

5. **Closing.** The term "Closing" is used in this Agreement to mean the time at which the title company records the Deeds in the office of the Salt Lake County Recorder. The Closing shall occur on or before **October 31, 2016**, unless the Buyer and the Seller mutually agree in writing to close the transaction on an alternate date.

- a. Buyer Deliveries. On or before the Closing Date, the Buyer shall deliver payment of the balance of the cash Purchase Price, less all deposited Earnest Money, in accordance with Section 2.a of this Agreement and a duly executed Assignment and Assumption of Lease in substantially the form attached hereto as Exhibit A. Buyer shall also deliver payment of one-half of all closing costs, including title, escrow and recording costs, and the difference between the cost of a standard coverage owner's policy of title insurance and an extended coverage policy of title insurance should Buyer elect to obtain an extended coverage policy.
- b. Seller Deliveries. On or before the Closing Date, the Seller shall deliver the following to the Buyer:
  - (i) The duly executed and acknowledged Special Warranty Deed in favor of the Buyer, conveying fee title to the Properties, free and clear of all liens and encumbrances which are unacceptable to the Buyer.
  - (ii) A duly executed Assignment and Assumption of Lease in substantially the form attached hereto as Exhibit A.
  - (iii) Original copies, as available, of all leases, subleases and contracts relating to the Properties. If applicable, all such leases, subleases and contracts shall be assigned to the Buyer at Closing.
  - (iv) All security deposits of current tenants, if any.
  - (v) One-half of all closing costs, including title, escrow, and recording costs.
  - (vi) The full cost of a standard coverage owner's title policy.

c. Failure to Deliver.

- (i) If the Buyer fails or refuses to deliver the required funds at the Closing, the Seller may, at the Seller's option, extend the time for the Closing, or may commence an action to compel specific performance by the Buyer. All costs shall be borne by the Party incurring the cost. The Seller expressly agrees that the action for specific performance pursuant to this Section shall be the Seller's sole remedy for the Buyer's failure to perform or deliver at the Closing.
- (ii) If the Seller fails or refuses to deliver a valid and acceptable Deed, or such other documents as may be necessary for the Seller to perform at the Closing, the Buyer may, at the Buyer's option, extend the time for the Closing, or may take any legal action necessary to enforce the Buyer's rights, to be made whole for compensatory and direct damages caused by the Seller's default, and/or to compel specific performance by the Seller.

d. Prorations. All amounts set forth in the following numbered paragraphs shall be prorated to 11:59 p.m. local time on the day before the date of Closing with Buyer receiving the benefits and burdens of ownership on and after the Closing:

- (i) All water, sewer, and utility charges for the Properties.
- (ii) Seller is paying the prorated 2016 General Property Taxes through the date of Closing, however, if for any reason the Salt Lake County Treasurer determines there are still taxes due on the Properties, it is the responsibility of the Seller to pay said taxes since the Buyer is tax exempt.
- (iii) All levied or pending assessments affecting the Properties.
- (iv) Current rents received from the Properties, if any.

The Seller shall furnish to the Buyer sufficient information to enable the Buyer and the Seller to make the prorations required under this Agreement.

6. **Representations, Warranties and Covenants.**

- a. Seller's Representation, Warranties and Covenants. The parties expressly understand that each of the following representations, warranties, and covenants made herein is material, and that the Buyer is relying upon each of such representations, warranties, and covenants as true and correct as of the date on which the parties executed this Agreement and as of the Closing Date, as though such representations, warranties and covenants had been made on each of such dates. As a condition to the Closing, the Seller hereby makes the following representations and warranties, in addition to any others made in this Agreement:

- (i) At the Closing, the Seller will be the sole owner of the Properties and will hold title to the Properties in fee simple, free and clear of all encumbrances, except for those found acceptable by the Buyer during the time period described in this Agreement.
- (ii) The Seller warrants that there is no pending claim, suit, or litigation that involves the Properties.
- (iii) At the Closing, there will be no unpaid bills or claims in connection with the Properties, except for utility bills related to leases.
- (iv) Between the date of this Agreement and the Closing date, the Seller, without the Buyer's prior written consent, shall not subject any right, title, or interest in the Properties to any mortgage, pledge, lien, or other encumbrance.
- (v) This Agreement and the consummation of this transaction do not and will not contravene any provision of any judgment, order, decree, writ, or injunction, and will not result in a breach of, constitute a default under, or require consent pursuant to any credit agreement, lease, indenture, mortgage, deed of trust, purchase agreement, guaranty, or other instrument to which any of the persons or entities comprising the Seller are presently a party or by which any of the same or their respective assets are presently bound or affected.
- (vi) All documents delivered to the Buyer by the Seller pursuant to this Agreement are true, correct, and complete originals or accurate copies of originals.
- (vii) Between the date of this Agreement and the Closing date, the Seller, without the Buyer's prior written consent, shall not enter into any leases on or involving the Properties for a tenancy other than month-to-month.
- (viii) To the actual knowledge of the Seller, without the duty to inquire or investigate, no hazardous waste or toxic substances have been stored on, released into, generated on, or deposited upon the Properties or into any water systems on or below the surface of the Properties, and the Properties comply with all local, state, and federal hazardous waste laws, rules, and regulations.
- (ix) This terms and conditions of this Agreement constitute a property conveyance transaction between a willing Buyer and a willing Seller at arm's length—the Seller has not entered into this Agreement as a result of any threat, promise or claim of the Buyer other than those contained herein this Agreement.

These representations, warranties, and covenants of the Seller shall survive the Closing on the Properties for a period of two years.

- b. Buyer's Representations and Warranties. Buyer represents and warrants to Seller that Buyer agrees that, except as expressly set forth in this Agreement, the Properties are being sold on an "as is" "where is" and "with all faults" basis on the terms and conditions herein set forth. Buyer has fully reviewed this "as is" provision and acknowledges and agrees that this provision is an integral part of the Agreement and that Seller would not have agreed to sell the Properties to Buyer without the provisions in this subsection.

7. **Brokerage Commissions/ Seller Fee.** The Buyer is represented by Broker Dee Hansen of the DRH Realty, LLC. The Seller is not represented by a broker or real estate agent in this transaction, although Seller will pay a 2 ½ percent fee based on the purchase price to Keyhole Partners, a Florida limited liability company, from Seller's proceeds at Closing. The Buyer shall be solely responsible for the payment of the commission to Dee Hansen in this transaction. Further, the Seller hereby indemnifies the Buyer from and against all claims, actions, damages, or costs, including reasonable attorney's fees and court costs, in connection with any claimed brokerage or real estate commissions with respect to the transaction contemplated by this Agreement that arise from or through any agent or broker consulted or used by the Seller. The Buyer hereby indemnifies the Seller from and against all claims, actions, damages, or costs, including reasonable attorney's fees and court costs, in connection with any claimed brokerage or real estate commissions with respect to the transaction contemplated by this Agreement that arise from or through any agent or broker consulted or used by the Buyer.

8. **Additional Acts and Consideration.** Both the Buyer and the Seller agree to execute all other documents and to do such other acts as may be reasonably necessary or proper in order to consummate the transaction contemplated by this Agreement.

9. **Notices.** All notices, requests, demands, and other communications required under this Agreement, except for normal, daily business communications, shall be in writing. Such written communication shall be effective upon personal delivery to any party or upon being sent by overnight mail service; by telecopy (with verbal confirmation of receipt); or by certified mail, return receipt requested, postage prepaid, and addressed to the respective parties as follows:

If to the Sellers: Heartland West Valley Commercial Limited Partners II  
Heartland West Valley Commercial Limited Partners, LLLP  
c/o Ken Jones  
Third Lake Capital  
100 N. Tampa Street  
Tampa, FL 33602

With a copy to: Snell & Wilmer L.L.P.  
Attn: Wade R. Budge, Esq.  
15 West South Temple, Suite 1200  
Salt Lake City, UT 84101

Telephone: 801-257-1900  
Facsimile: 801-257-1800

If to the Buyer: Redevelopment Agency of West Valley City  
Attn: Nicole Cottle  
3600 Constitution Boulevard  
West Valley City, Utah 84119  
Telephone: 801-963-  
Facsimile: 801-963-8434

With a copy to: City Attorney  
West Valley City  
3600 Constitution Boulevard  
West Valley City, Utah 84119  
Telephone: 801-963-3271  
Facsimile: 801-963-3366

Either party may change its address for purposes of this Agreement by giving written notice to the other party.

10. **Attorney's Fees.** Should it become necessary for either party to enforce its rights under this Agreement, whether in suit or otherwise, the prevailing party shall be entitled to recover from the unsuccessful party reasonable attorney's fees and costs, in addition to any other relief to which the party attempting to enforce its rights hereunder may be entitled.

11. **Modification.** Neither party to this Agreement may amend or modify this Agreement, except in a writing executed by the parties hereto.

12. **Risk of Loss.** If, prior to the Closing Date, the Properties or any portion thereof is damaged by fire, acts of God, or other casualty or cause, the Buyer shall have the right to terminate this Agreement and the full Earnest Money shall be refunded to Buyer.

13. **Entire Agreement.** The parties expressly agree that this Agreement and the exhibits attached hereto constitute the full and complete understanding and agreement of the parties, and that this Agreement supersedes all prior understandings, agreements, and conversations between the parties, whether oral or written. Any prior negotiations, correspondence, or understandings related to the subject matter of this Agreement shall be deemed to be merged into this Agreement and the attached exhibits.

14. **Severability.** If any term or provision of this Agreement is invalid or unenforceable for any reason whatever, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.

15. **Captions and Headings.** The section headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement.

16. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original for all purposes, but all of which shall constitute but one and the same instrument.

17. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Utah.

18. **Assignability.** This Agreement shall bind and inure to the benefit of the assignees, heirs, and successors-in-interest of the Buyer and the Seller. Neither the Buyer nor the Seller shall assign its rights or delegate its obligations hereunder without the prior written consent of the other.

19. **Time of the Essence.** Time is of the essence with respect to the performance of the parties under this Agreement.

20. **Waiver.** A waiver by either party of any provision of this Agreement shall not operate or be construed as a waiver of any other subsequent breach.

IN WITNESS WHEREOF, the parties to this Agreement have executed this Agreement as of the day and year first above written.

**BUYER:**

Redevelopment Agency of West Valley City

\_\_\_\_\_  
Chief Executive Officer

ATTEST:

\_\_\_\_\_  
Secretary

APPROVED AS TO FORM  
West Valley City RDA Attorney

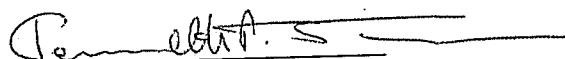
By: \_\_\_\_\_

Date: \_\_\_\_\_

**SELLERS:**

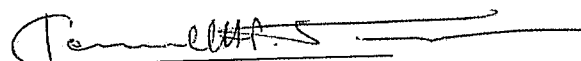
**HEARTLAND WEST VALLEY  
COMMERCIAL LIMITED PARTNERS II,**  
a Utah limited partnership

By: Keyhole Land Management Company,  
LLC  
Its: General Partner

By:   
Title: Managing Member  
Date: \_\_\_\_\_

**HEARTLAND WEST VALLEY  
COMMERCIAL LIMITED PARTNERS, LLLP,**  
a Minnesota limited partnership

By: Keyhole Land Management Company,  
LLC  
Its: General Partner

By:   
Title: Managing Member  
Date: \_\_\_\_\_



**EXHIBIT A**  
**FORM OF ASSIGNMENT AND ASSUMPTION OF LEASES**

Assignment and Assumption of Leases

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Heartland West Valley Commercial Limited Partners, LLLP, a Minnesota limited partnership and Heartland West Valley Commercial Limited Partners II, a Utah limited partnership (collectively, in the singular, the "**Assignor**") does hereby transfer, assign and convey to Redevelopment Agency of West Valley City, an agency of West Valley City, a Utah political subdivision ("**Assignee**"), all of Assignor's right, title and interest in and to those certain tenant leases identified in the attached Exhibit 1 ("**Leases**"), which are in connection with the sale of landlord's interest in the Leases at the shopping center at approximately 3550 South 2700 West to Assignee.

Assignee hereby accepts the above assignment and assumes all obligations, liabilities, and claims arising out of or relating to the Leases arising from and after the date of this assignment. Assignor shall indemnify and hold Assignee harmless from and against all loss, damage, cost and expense that may be claimed against, imposed upon or incurred by Assignee by reason of Assignor's failure to perform any of his obligations under any of the Leases on or before the date of this Assignment. Assignee shall indemnify and hold Assignor harmless from and against all loss, damage, cost and expense that may be claimed against, imposed upon or incurred by Assignor by reason of Assignee's failure to perform any of its obligations under any of the Leases after the date of this Assignment.

"ASSIGNOR"

**HEARTLAND WEST VALLEY  
COMMERCIAL LIMITED PARTNERS II,**  
a Utah limited partnership

By: Keyhole Land Management Company,  
LLC  
Its: General Partner

By: \_\_\_\_\_  
Title: Managing Member  
Date: \_\_\_\_\_

**HEARTLAND WEST VALLEY  
COMMERCIAL LIMITED PARTNERS, LLLP,**  
a Minnesota limited partnership

By: Keyhole Land Management Company,  
LLC  
Its: General Partner

By: \_\_\_\_\_  
Title: Managing Member  
Date: \_\_\_\_\_

“ASSIGNEE”

Redevelopment Agency of West Valley City

\_\_\_\_\_  
Chief Executive Officer

**Exhibit 1 to Assignment and Assumption of Leases**  
**To be added at Closing**